

IDAHO Supreme Court

JUDICIAL/ADMINISTRATIVE NEWS

JULY 2004

Court Sets FY05 Budget Plans

Idaho Chief Justice Linda Copple Trout recently reviewed several issues relating to the Court's new fiscal year budget plans, which are effective July 1, 2004.

The Chief Justice said she remains concerned about adequate future funding for the Idaho judiciary, particularly in the next fiscal year, 2006, and she reiterated a need to keep careful controls on spending in place.

"Even during these extremely difficult times, I am proud that you continue to demonstrate your leadership and innovation, and thank each of you for all you do," the Chief Justice wrote in a memorandum to court personnel.

Here is a brief review of some of the budget highlights:

- ⚖ The Court voted to make salary increases for non-judicial personnel effective June 1, rather than July 1.
- ⚖ Youth courts and status offender services relating to tobacco and substance abuse will be funded by \$270,000 from the state's Millennium Fund.
- ⚖ Senior District Judge and Senior Magistrate Judge days have been increased and allocated to those districts with the greatest need.
- ⚖ Dedicated funds are now available, from a 2% liquor sale surcharge, to support Drug and Family Court services. The funding will be maintained at the FY04 levels, while additional experience with this funding source is gained. The Court did allocate an additional \$25,000 to each judicial district to increase staffing for drug courts, coordinated family services, or court assistance offices.



- ⚖ Funding remains extremely tight for committee meetings and every effort has been made to maintain training and education efforts at the FY04 level.
- ⚖ Personnel and operations funding must continue to be carefully controlled, and existing personnel must be relied upon to accomplish, to the extent possible, improvement efforts and special projects. The budget assumes continued reliance on email and the Court's website for publications and communications. Technology improvements will continue to be funded from the Technology Fund.
- ⚖ Strict budget controls remain in effect, including a continuing hiring freeze, and contingency planning in the event a holdback occurs in FY06.

"As we enter the third year of strict budget controls," Chief Justice Trout said, "I want to commend each and every one of you for your patience and efforts to reduce budgets and costs."

Request from Civil Jury Committee

A Civil Jury Instructions Committee meeting has been scheduled for September 10, 2004. Judge Duff McKee, the committee chairman, would like to have any comments or problems that may be found in the civil jury instructions forwarded to him, either by email at ddmckee@rmci.net or by telephone at 208-381-0060.

Highlights of the 2004 Idaho Rule Changes

A significant number of rule changes, ranging from misdemeanor infractions to child support guidelines, took effect on July 1. The orders providing for amendments to rules can be reviewed on the Court's home page at: <http://www.isc.idaho.gov>

2004 Awards – Invitation for Nominations

Justice Roger Burdick, the Chairman of the Kramer/Granata Awards Committee, has announced that nominations are now open for the 2004 Douglas C. Kramer Award and George G. Granata, Jr. Professionalism Award.

The Kramer Award, named in honor of retired District Judge Douglas C. Kramer of Twin Falls, is awarded annually to the person who best exemplifies excellence in judicial administration in Idaho by virtue of character and action.

The George G. Granata, Jr. Professionalism Award, named in honor of the late District Judge George G. Granata, Jr. of Burley, is awarded annually to the trial judge who best exemplifies the professionalism evidenced by Judge Granata during his more than twenty years of judicial service.



Past Recipients of the Granata Award:

1999: Judge James May
2000: Judge Ron Schilling
2001: Judge James Judd
2002: Judge George Reinhardt, III
2003: Judge Randy Smith

All judicial employees, except members of the Supreme Court, are eligible for the Kramer Award, whether or not they are state employees. Anyone performing a full-time court function is eligible and any judicial employee may nominate any other judicial employee in the Idaho Court System.

All magistrate, district, and senior judges are eligible for the George G. Granata, Jr. Professionalism Award. Any judicial employee or member of the Idaho State Bar may nominate a sitting or senior district or magistrate judge in the Idaho Court System.

Nominations should be submitted by Friday, August 13, 2004. Please forward nominations to the following address:

Kramer Award/Granata Award Selection Committee
Justice Roger Burdick, Chair
P.O. Box 83720
Boise, ID 83720-0101
Fax# 208-947-7590 or email to: ssanchotena@isc.state.id.us

Past Recipients of the Kramer Award:

1986: Justice Charles R. Donaldson
1987: Judge Edward Lodge and Mary Kautz
1988: Justice William Black
1989: Justice Alan G. Shepard, posthumously
1990: Diana Meyer and Judge Daniel C. Hurlbutt, Jr.
1991: Marji Shepherd and Judge Gary M. Haman
1992: Justice Robert E. Bakes
1993: Carl F. Bianchi
1994: Judge Dan C. McDougall
1995: John R. Peay
1996: Judges John F. Varin and Patricia G. Young
1997: Corrie Keller
1998: Judge Mildred R. McClure
1999: Judge Don L. Swanstrom
2000: Judge Larry R. Duff
2001: Patricia Tobias
2002: Robert Hamlin
2003: Judge Bryan Murray

Odds & Ends

Idaho Association of Counties' Newsletter Available

The latest issue of the Idaho Association of Counties' newsletter County Commentary is available on the organization's home page: www.idcounties.org.

2003 Youth Risk Behavior Survey Available

The 2003 Youth Risk Behavior Survey (YRBS) Surveillance Summary is available online at <http://www.cdc.gov/yrbss>.

Idaho State Bar & Idaho Law Foundation

Information on the upcoming Idaho State Bar Association meeting and on other Bar and Law Foundation issues is online at: <http://www.idaho.gov/isb>.



A round-up of judicial personnel making news across Idaho



Judge Elgee Takes Oath

Idaho Chief Justice Linda Copple Trout swore in Judge Robert J. Elgee as a new Fifth District Judge for Blaine County on June 4. The oath of office followed a welcome by Judge Thomas Borresen and remarks by Supreme Court Justice Roger Burdick. The ceremony and reception were held in Hailey. Congratulations, Judge Elgee!

she has been in a private law practice for nearly 13 years. Prior to entering her private law practice, Ms. Orr was an Assistant Public Defender in Canyon County for nearly four years.

Fourth District Magistrate Judges Named

James S. Cawthon and Roger E. Cockerille have been appointed Magistrate Judges in Ada County.

Judge Cawthon, who replaces retiring Magistrate Judge John Dutcher, has been a deputy prosecuting attorney, working on felony cases, with the Ada County Prosecutor's Office for the last four years. He was an assistant District Attorney in Johnson and Somervell counties in Texas from 1993 to 2000, prosecuting felonies, misdemeanor, juvenile and child protection cases. Judge Cawthon also practiced commercial litigation, family law and personal injury law in Dallas, Texas.

The newly appointed Judge holds a Bachelor Degree in Business Administration from Abilene Christian University and has a Juris Doctorate from the University of Texas. He is a member of the Idaho State Bar Association, the Idaho Prosecuting Attorney's Association and the National College of District Attorneys Alumni Association.

Judge Cockerille has been appointed to replace Magistrate Judge Patricia Young. Cockerille has been the Boise City Attorney since February 2003, where he oversees the city's legal matters. From 1999-2003, Cockerille was the senior assistant city attorney in charge of civil litigation for the Boise City Attorney's Office. From 1997-1999, he was an assistant city attorney handling criminal cases for the Boise City Attorney's Office. Mr. Cockerille also practiced civil litigation with a Cheyenne, Wyoming law firm from 1993-1996, handling securities litigation and medical malpractice cases.

The newly appointed Judge holds a Bachelor of Arts degree from the University of Hawaii-Honolulu and a Juris Doctorate from the University of Wyoming College of Law. He is a member of the Idaho State Bar, the Idaho State Bar foundation, the Idaho Municipal Attorney's, Inc., the Idaho Association of Civil Defense Counsel, the American Bar Association and the Federalist Society.

New Magistrate Judge In the First District

The First District's Magistrate Commission has announced the appointment of Penny Friedlander as Kootenai County Magistrate Judge. She replaces Magistrate Judge Don Swanstrom who retired July 1, 2004.

Judge Friedlander attended the University of Idaho, College of Law, and graduated with a Juris Doctorate in 1990. She also received a Master of Education in Special Education in 1979 at the U of I. Judge Friedlander also received a Bachelor of Arts degree in 1973 from Central Washington State University in Ellensburg.

The new Judge's background includes working as an elementary school special education teacher in Moscow before graduating from law school and taking the bar. She later moved to Coeur d'Alene and worked in the Public Defender's office there. Upon leaving the PD's office, she entered private practice. During her years in private practice she served as prosecutor for the cities of Spirit Lake and Clark Fork. Her entire 14 years of professional practice has been in North Idaho, primarily in Kootenai County before the Magistrate division.

Third District Magistrate Judge Named

Debra A. Orr of Caldwell has been named a new Magistrate Judge for Canyon County. Judge Orr was selected from a field of 19 applicants. She will be filling the magistrate judge position assigned to the Nampa Annex.

Judge Orr received her undergraduate degree and law degree from the University of Idaho. She is currently a resident of Caldwell where



Fifth District Appoints Two Magistrate Judges

The Fifth Judicial District Magistrates Commission met recently to review applicants for two Magistrate Judge positions, one in Blaine County, the other in Gooding County.

The candidates to replace Judge Robert J. Elgee in Blaine County, who was recently appointed by Governor Kempthorne as a Fifth District Judge, were:

Fred M. Adams, Idaho Falls
Frederick C. Allington, Hailey
Cindy L. Campbell, Blackfoot
Daniel M. Dolan, Ketchum
Richard Dredge, Boise
Timothy Graves, Hailey

Roger B. Harris, Twin Falls
R. Ted Israel, Pocatello
Paul R. Kroeger, Wendell
Debra Kronenberg, Ketchum
Norman R. Leopold, Ketchum
Casey U. Robinson, Shoshone

John (Jay) Stephenson II, Fort Lewis, WA
Jimmy Thomas, Bellevue
Steven A. Tuft, Burley
Wes Wilhite, Caldwell
Michael Henry Williamson, Bellevue, WA

The applicants for the vacancy in Gooding County, to replace retired Judge Kevin P. Cassidy, were:

Scott Andrew, Blackfoot
Philip A. Brown, Gooding
Calvin H. Campbell, Wendell
Roger B. Harris, Twin Falls
Craig D. Hobdey, Gooding

Joseph F. James, Gooding
Paul R. Kroeger, Wendell
Casey U. Robinson, Shoshone
John (Jay) Stephenson II, Fort Lewis, WA
Steven Anthony Thomsen, Pocatello

Steven A. Tuft, Burley
Wes Wilhite, Caldwell
Michael Henry Williamson, Bellevue, WA

The Commission appointed Judge R. Ted Israel to the Blaine County position, and Casey Robinson to the Gooding County position.

Bingham County Magistrate Judge Resigns

Bingham County Magistrate Judge Jim Archibald has resigned effective June 16, 2004. Recruitment for his replacement is underway.

Retirement Celebration for Judge Young

Many friends and colleagues gathered in Idaho City recently to celebrate Judge Patricia Young's 23 years as Magistrate Judge for Boise County. Everyone attending enjoyed a concert and potluck picnic in the John Brogan Park that followed a program held to honor Judge Young.

Open House for Judge Cassidy

The Fifth Judicial District and Gooding County recently honored Judge Kevin P. Cassidy for his many years of service to the Judiciary with an open house in Gooding. Judge Cassidy's family, friends and colleagues were in attendance to celebrate his service to the community.

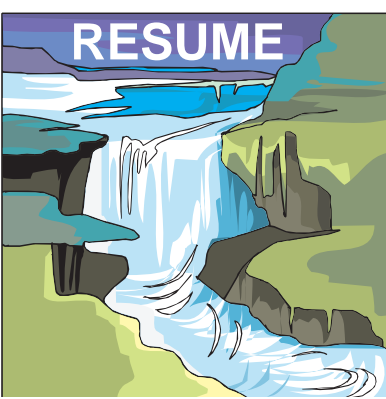


Justice Petrie Ordered to Active Duty

Third District Magistrate Judge Gordon W. Petrie of Emmett reported for active military duty on June 7, 2004. Judge Petrie's period of active duty, unless sooner released or unless extended, is not to exceed 571 days. *Our thoughts are with you, Judge Petrie.*

Special Master Applications Accepted

The SRBA District Court of Twin Falls recently announced that Special Master applications would be accepted through June 30, 2004.



The position entails working for the Presiding Judge of the Snake River Basin Adjudication and requires a variety of management, legal and technical skills. The Special Master is responsible for assisting the Presiding Judge in resolving water rights cases. Special Masters also hear pretrial matters, conduct hearings and file findings of fact and conclusions of law with the Presiding Judge.

The applicants will be evaluated and selected based on their knowledge of court procedures, legal documents and the Idaho Rules of Civil Procedure. Also taken into consideration will be the candidate's experience in the litigation process, preparation of legal documents, demonstrated skill in the operation of computers and verbal skills. The applicants will need to show experience with interacting effectively with state, county and local officials with a familiarity or background in water law or related areas.

An example of the education and experience likely to provide the required knowledge and skills would be a J.D. from an accredited law school and five years litigation experience. For further information go to the SBRA Court Web Site at www.srba.state.id.us or contact the SBRA Court at 208-736-3011.

Farewell For SRBA Special Master Tom Cushman

A farewell reception was held recently at Carmela Vineyards in Glens Ferry for the Honorable Tom Cushman, who retired last month after serving on the Snake River Basin Adjudication (SRBA) court for five years and as Magistrate Judge in Gooding for eleven years.

Judge Redman Receives Award

Judge Michael Redman was presented with the Public Policy Leadership Award at a luncheon during the "Three Days in June" Conference in Boise last month for his work in examining improvements in Civil Protection Orders/No Contact Orders.

Judge Black Dies

Retired District Judge William E. Black has died at the age of 80. Funeral services were held on May 17, 2004. Judge Black served on the bench in the Seventh Judicial District until his retirement in 1988.

Important Websites



-  **Idaho Supreme Court:** <http://www.isc.idaho.gov>
-  **Idaho State Law Library:** <http://www.isll.idaho.gov>
-  **Idaho State Bar:** <http://www.idaho.gov/isb>
-  **Court Assistance Offices:** <http://www2.state.id.us/cao>
-  **Idaho Law Foundation 2002 – 2003 Annual Report Online:** http://www2.state.id.us/isb/gen/ilf_info.htm#AnnRpt
-  **National Center for State Courts:** <http://www.ncsconline.org>



Grant for Meth Treatment Continues

The Idaho Criminal Justice Council announced it would continue funding of the Fiscal Year 2004 project, the Idaho Juvenile Drug Court Methamphetamine Treatment Enhancement Project.

New Report on Drug Court Effectiveness

The National Drug Court Institute, with the cooperation of the Office of National Drug Control Policy and the Bureau of Justice Assistance, has just released a major new national report on drug court effectiveness.

The report presents, for the first time, data, results, and outcomes compiled from a variety of sources, as well as analysis of current scientific research and literature.

The report says of national drug court efforts, "no other justice intervention brings to bear such an intensive response with such dramatic results: results that have been well-documented through the rigors of scientific analysis."

The report also notes that 1,183 drug courts were in operation last year, with 414 additional courts in the planning process.

The 16-page analysis, which will be published twice a year, has a section on drug court benefits, spin-off efforts, problem solving courts, and six different tables providing state-by-state data.

The full report is entitled, "Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States."

The National Drug Court Institute is the education, research, and scholarship affiliate of the National Association of Drug Court Professionals.

Review the full report at:

<http://www.ndci.org/publications/paintingcurrentpicture.pdf>

JUDICIAL EDUCATION

Regional Training on ICWA Set

Mark your Calendar! The Idaho Supreme Court's Foster Care Committee, in collaboration with Idaho's tribal governments, are offering three multidisciplinary regional trainings on the Indian Child Welfare Act (ICWA). The National Indian Child Welfare Association (NICWA) will provide the trainers for the conference. The first day of the training will focus on the ICWA statute and the second day will focus on cultural competency in child protection cases.

The training dates are:

- ♂ July 20 and 21 in Worley
- ♂ October 4 and 5 in Boise
- ♂ October 5 and 6 in Pocatello

Supervised Visitation Training Scheduled

Training on supervised visitation, providing core essential skills as well as the promotion of best practices in supervised visitation cases, is scheduled for August 12-13, 2004 at Idaho State University in Pocatello.



Registration is free to all participants and is funded by the Safe Havens Grant obtained by Bannock County in partnership with Family Services Alliance and the Bannock County Domestic Violence and Sexual Assault Task Force. Participants will be responsible for their own travel, lodging and meals.

The training is open to current supervised visitation providers, new providers and Family Court Service Coordinators. The training will begin Thursday, August 12 at 9:00 am and will conclude on Friday, August 13. Some limited funding is available through the Idaho Supreme Court to help offset hotel costs for current providers who wish to attend to enhance their skills. Please contact Viki Howard at 208-384-5910 or email vikih1@cablone.net if you wish to apply for help with lodging.

Registration materials will be emailed next month. Please watch for this information. If you have further questions, please contact the Family Court Services Coordinator in your district.



Fourth Judicial District

Judge Darla Williamson reports a first place finish for a court team in the Fourth District Bar's Golf Tournament on June 13. The winning women's division team members were: Judge Deborah Bail, Judge Williamson, Deputy Court Clerk Janine Kersen, Deputy Court Clerk Marilyn Edwards, Transcript supervisor Raeann Nixon, and Deputy Court Marshal Tami Emmons.

Article Published –

Ada County's Family Violence Court

Renee Morse, Amber Moe, and Melissa Bonney recently authored an article entitled, "A Positive Approach to New Collaboration" which is included in this month's American Humane publication. The article describes Ada County's project, and the general principles of the project. The article can be found at: http://www.americanhumane.org/site/PageServer?pagename=pc_best_practice_rmjqic_nsltr02.



Family Court Service Coordinators Met

Family Court Services Coordinators met in Hagerman at the Hagerman Inn on June 3-4, 2004.

Participants received valuable training and had an opportunity to discuss developments in each district, outcomes on projects and grants, as well as individual challenges and lessons learned. Jana Kemp provided a training session, "Conducting Effective Meetings" the morning of the first day and Julie Cottrell lead the group in an ISTARS training session – using



data systems to coordinate cases, "Family Connectivity" and "Family Link," later that afternoon. The second day of the session began with a discussion of the annual report, "Evaluating the Effectiveness of Family Court Services." Family Court Service Coordinators also shared resources and best practices developed in each district and information from the AFCC Conference held this past May in San Antonio, Texas. All in all, the meeting proved to be a very valuable training session for all who attended. For further information about Family Court Services contact Viki Howard at 208-384-5910.

TECHNOLOGY/ISTARS

Legislative Update Changes 2004

by Julie Cottrell and Karen Allport

Due to some Statute/Ordinance Modifications a new revision (200407) has been created.

New Statutes Include:

- 49-811 Optical Strobe Light violation - misdemeanor
- 18-7905 Stalking 1st degree - felony
- 18-8327(1) Sex Offender Prohibited Employment - felony
- 18-8327(2) Sex Offender Prohibited Employment - misdemeanor
- 18-8414(1) Juv Sex Offender Prohibited Employment - felony
- 18-8414(2) Juv Sex Offender Prohibited Employment - misdemeanor
- 18-6609 Video Voyeurism - felony
- 18-1523 Minors-Unlawful Tattooing or Body Piercing - misdemeanor
- 39-5506 Smoking in Public Bldg/Office - infraction - penalty \$100
- 39-5507 Smoking - Refuse to Extinguish in Public Bldg/Office - infraction - penalty \$50

Modified Statutes Include:

- 18-7906 Stalking 2nd degree - misdemeanor - no bond until court appearance
- 18-918 Domestic Violence Assault & Battery - all subsections re-numbered.



New ISTARS Procedures:

- ⚖️ **HB 519 Misdemeanor Drug Restitution:** This bill allows courts to order restitution paid to any law enforcement agency for investigation of drug crimes, racketeering or money laundering. Clerks should enter restitution monies ordered using the current 'victim restitution' procedures.
- ⚖️ **HB 520 DNA Restitution:** This bill allows courts to order restitution paid to any law enforcement agency for DNA analysis up to \$500 per DNA sample, or in the aggregate not more than \$2000. Again Clerks should enter restitution monies ordered using the current 'victim restitution' procedures.
- ⚖️ **I.C.R. 25:** The Supreme Court reinstated and amended I.C.R 25, disqualification of judge without cause.

ISTARS Fee Schedule Modifications:

- ⚖️ **HB 751 Dispensing Alcohol to Minors 23-603 - New Fine Distribution:** This legislation removes the felony provision and provides an enhanced penalty for subsequent misdemeanor violations and puts all fine money into a new ISTARS fine category, the 'alcoholism treatment fund'.
- ⚖️ **I.C.A.R. 12:** The Supreme Court repealed I.C.A.R. 12. The \$5.00 marriage ceremony fee will be deleted from the new fee table effective July 1, 2004.

Continued on Next Page

New Family Law Case Information:

The courts will be receiving some new paperwork that will be filed along with cases that are defined as "Family Law" cases, entitled "The Family Law Information Sheet". That information sheet will provide the court with more details as to the address, DOB, and other personal identifying information for both the plaintiff and the defendant, than the court has customarily received for those parties in the past.

The Deputy Clerk is instructed to use that form to enter the complete "party information" for both the plaintiff and the defendant in ISTARS,

and when finished then **place it in a sealed envelope and place it in the case file.** (It is further requested that the clerk note on the envelope, or case file, if "related cases" are identified on the information sheet, until an ISTARS enhancement is made to capture this information within ISTARS.)

Additionally: Deputy Clerks have been asked to provide a copy of this blank form to a petitioner who is applying for a 'Civil Domestic Violence Protection Order' along with the other forms that they are currently provided.



New Orders & Rule Changes

For current New Orders or Rule Changes, go to:
<http://www.isc.idaho.gov/rulesamd.htm>

A summary of all Rule Changes & each Order is available on the court's website.

IN RE: Amendment of Idaho Criminal Rule 25 - June 21, 2004, effective July 1, 2004

Rule 25 will not apply to drug courts or mental health courts.

Family Law Case Information Sheet - effective July 1, 2004

As of July 1, plaintiffs in family law cases are required to fill out a family law case information sheet and file it along with the complaint or petition. The purpose of the sheet is to provide information that will enable the family case service coordinator and the judge to determine whether there are multiple issues and cases involving the family so that these cases can be coordinated.

This information allows for the possible assignment of one judge to handle all of the family's cases, and the coordination of decision-making so as to avoid conflicting or inconsistent orders. Since this sheet contains personal information, the rule provides that the sheet is exempt from disclosure under I.C.A.R. 32(d); thus, these information sheets are to be sealed and kept in the file in an envelope.

If you have any questions please feel free to email cderden@isc.state.id.us or call 208-334-3867. Please help communicate this change to other interested parties.

IN RE: MEMBERSHIP OF CRIMINAL JURY INSTRUCTIONS COMMITTEE

Honorable Renae Hoff, Greg Bower, and Stephen Bywater have been released from the duties associated with this Committee. For the full order, go to: <http://www.isc.idaho.gov/CRJURYORD.htm>.

Amended Application For Appointment As An Evaluator Of Persons Who Are Guilty Of Domestic Assault Or Domestic Battery Under I.C. § 18-918 (Idaho Criminal Rule 33.3)

http://www.isc.idaho.gov/icr_04.htm



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Chief Justice Linda Copple Trout

Justice Gerald F. Schroeder

Justice Wayne L. Kidwell

Justice Daniel T. Eismann

Justice Roger S. Burdick

We are very interested in your news and information. If you have or are aware of items that should be featured in a future edition of Judicial/Administrative News please let us know!

News items may be submitted for publication to Patricia Tobias:

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Thanks!



Note: For the most up-to-date Judicial Calendar,
check the Judiciary's homepage at
<http://www.isc.idaho.gov/calendar.htm>